IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

SUMMONS FOR JUDGEMENT NO.1195 OF 2003
IN
SUMMARY SUIT NO.1675 OF 2003

Smt.Kamlaben A.Jain .. Plaintiff

Vs.

Laxman Shivaram Shetty and Anr. .. Defendants

Mr.H.V.Chande for the plaintiff

Mr.S.B.Prabhawalkar for the defendants

CORAM : S.U.KAMDAR, J
DATED : 12TH SEPTEMBER, 2005

P.C.:

1. The present suit is filed on a bill of exchange dt.28.3.00 which is at Ex.A to the plaint. The said bill of exchange is for Rs.2,40,000/-.According to the plaintiff out of the aforesaid amount Rs.40,000/- is is received as part payment. The balance Rs.2,00,000/- is payable and the interest is payable at Rs.1,07,600/-

2. The learned counsel for the defendant disputes the said liability and interalia contended that he has signed the document in blank. He is also

disputing the signature of defendant no.2. Looking at the bill of exchange it is clear that bill of exchange is duly signed by the defendant no.1. However, the contention raised is that the money was obtained from one Asalraj P.Jain and not Kamlaben A.Jain and the suit filed by Kamlaben A.Jain is not maintainable. In that view of the matter, the contention raised is without any merits. There is a presumption of consideration under the Negotiable Instruments Act. There was a notice of demand but there was no reply. In the light of the aforesaid fact, I do not find any substance, However, with a view to give an opportunity to the defendants to defend the suit, I direct the defendant to deposit a sum of Rs.3.0 lacs within four weeks failing which plaintiffs will be entitled to decree. If the said amount is deposited the Prothonotary and Senior Master is directed to invest the same in any Nationalised Bank in Fixed Deposit initially for a period of 3 years and then renew the same from time to time till further orders of this court. If the amount is deposited then suit is to be transferred to the list of Commercial Causes. Written Statement or

points of defence to be filed within four weeks from today. Affidavits, list of documents to be filed within four weeks thereafter. Inspection within four weeks thereafter. Suit to be on board of the learned Judge taking Commercial Causes.